

TYPE II LAND DIVISION & ENVIRONMENTAL REVIEW, STAFF REPORT & DECISION



Form DS1401 PLD

Project Name: JACKOLA SHORT PLAT

Case Number: PLD2009-00027; SEP2009-00048; SHL2009-00004; VAR2009-00009; WET2009-00041; FLP2009-00002; GEO2009-00011

Location: 14811 NE Hammond Road

Request: The applicant is requesting to short plat 10.96 acres into two single-family residential lots located in the R-5 zone district and the Conservancy shoreline environment of Rock Creek.

Applicant: HFI Consultants
10 South Parkway Avenue, Suite 201
Battle Ground, WA 98604
(360)723-5523; (360)723-5522 fax
tim@hficonsultants.com

Contact Person: Same as above

Property Owner: Michael & Tonya Jackola
PO Box 102
Kalispell, MT 059903

DECISION

Approve subject to Conditions of Approval

Team Leader's Initials: ATG **Date Issued:** September 10, 2009

County Review Staff:

	<u>Name</u>	<u>Phone Ext.</u>	<u>E-mail Address</u>
Team Leader:	Travis Goddard	4180	Travis.goddard@clark.wa.gov

Planner:	Terri Brooks	4885	Terri.brooks@clark.wa.gov
Habitat Biologist:	Dave Howe	4598	David.Howe@clark.wa.gov
Wetland Biologist:	Brent Davis	4152	Brent.Davis@clark.wa.gov
Engineer Supervisor: (Trans. & Stormwater):	Sue Stepan P.E.	4102	sue.stepan@clark.wa.gov
Engineer (Trans. & Stormwater):	Brad Hazen	4346	brad.hazen@clark.wa.gov
Fire Marshal Office	Tom Scott	3323	tom.scott@clark.wa.gov

Comp Plan Designation: Rural-5

Parcel Number(s): Tax lot 65 (224121-000) located in the Northeast Quarter of Section 14, Township 4 North, Range 2 East of the Willamette Meridian

Applicable Laws:

Clark County Code: Title 15 (Fire Prevention), Section 40.210.020 (Rural Residential Zoning District), Section 40.350 (Transportation), Section 40.350.020 (Transportation Concurrency), Chapter 40.380 (Storm Water Drainage and Erosion Control), Section 40.410 (Critical Aquifer Recharge Area), Section 40.420.010 (Flood Hazard Area), Section 40.430 (Geologic Hazard Areas), Section 40.440 (Habitat Conservation), Section 40.450 (Wetland Protection Ordinance), Section 40.460 (Shoreline Overlay District), Sections 40.500 and 40.510 (Procedures), Section 40.540 (Land Division Ordinance), Section 40.570 (SEPA), Section 40.570 (SEPA Archaeological), Section 40.610 (Impact Fees), Title 24 (Public Health), Clark County Shoreline Management Master Program, the Clark County Comprehensive Plan, WAC 173-27, RCW 90.90.58, RCW 27.53, RCW 27.44 and WAC 25-48.

Neighborhood Association/Contact:

Neighborhood Advisory Council of Clark County (NACCC) Art Stubbs, Vice Chair
6804 NE 86th Court; Vancouver, WA 98662 sixsplus8@aol.com

Vesting:

An application is reviewed against the subdivision, zoning, transportation, stormwater and other land development codes in effect at the time a fully complete application for preliminary approval is submitted. If a pre-application conference is required, the application shall earlier contingently vest on the date the fully complete pre-application is filed. Contingent vesting requires that a fully complete application for substantially the same proposal is filed within 180 calendar days of the date the county issues its pre-application conference report.

A pre-application conference on this matter was held on May 7, 2009. The pre-application was determined to be contingently vested as of April 10, 2009 (i.e., the date the fully complete pre-application was submitted)].

The fully complete application was submitted on May 27, 2009 and determined to be fully complete on June 17, 2009. Given these facts, the application is vested on April 10, 2009. There are no disputes regarding vesting.

Time Limits:

The application was determined to be fully complete on June 17, 2009. The applicant was asked to submit additional information which extended the deadline by eight days. Therefore, the County Code requirement for issuing a decision within 78 days lapses on September 10, 2009.

Public Notice:

Notice of application was mailed to the applicant, Neighborhood Advisory Council of Clark County and property owners within 500 feet of the site on July 7, 2009.

(Note: This site is not located within the boundaries of a recognized neighborhood association.)

Public Comments:

E-mail comments were received August 4, 2009 from Michael and Jan Severini. They expressed concern about any access being allowed to NE Hammond Court, whether this proposal could affect their ability to divide their land and that somehow this proposal could affect his property lines or property dimensions.

Staff Response: This proposal will use the existing driveway for access off NE Hammond Road not Hammond Court. Nothing in this proposal will affect the Severini's ability to divide their land. Land division depends on, among other things, having enough land to meet the zone standards when divided, ability to obtain septic and well approvals and adequate access. This proposal has completed a preliminary boundary survey that does not show any encroachment onto the Severini's property. No one can take someone else's property even for road purposes unless there has been a long standing encroachment and a court of law orders it.

Project Overview

The subject parcel contains 10.78 acres, including right-of-way. The site contains an existing home and a barn that is proposed to be retained. The barn is very old and dilapidated. The applicant proposes to divide the property into two 5 acre residential lots.

NE Hammond Road abuts the site on the north and NE 147th Avenue abuts on the west. NE Hammond Road is a public road while NE 147th Avenue is a private road. The existing residence is served by a driveway from Hammond Road which will be extended to serve the new lot.

Rock Creek runs about 140 feet west of the northwest portion of the property. Its shoreline area extends onto the site, including wetlands and riparian habitat. There is also a large area of wetland within both of the lots. No development activities are proposed within the sensitive areas or their buffers.

The property slopes down from Hammond Road but quickly flattens out. The balance of the site is relatively flat. Most of the property is open and grass covered, except for a few evergreen trees and residential landscaping surrounding the existing residence. The higher ground is where the existing home is located.

The site is surrounded by large rural parcels containing residences and agricultural activities.

Comprehensive Plan, Zoning and Current Land Use

Compass	Comp Plan	Zoning	Current Land Use
Site	R-5	R-5	Residential
North	R-5	R-5	Residential
East	R-5	R-5	Residential and open space
South	R-5	R-5	Residential
West	R-5	R-5	Residential

Staff Analysis

Staff first analyzed the proposal in light of the 16 topics from the Environmental Checklist (see list below). The purpose of this analysis was to identify any potential adverse environmental impacts that may occur without the benefit of protection found within existing ordinances.

- | | |
|---------------------------------|--|
| 1. Earth | 9. Housing |
| 2. Air | 10. Aesthetics |
| 3. Water | 11. Light and Glare |
| 4. Plants | 12. Recreation |
| 5. Animals | 13. Historic and Cultural Preservation |
| 6. Energy and Natural Resources | 14. Transportation |
| 7. Environmental Health | 15. Public Services |
| 8. Land and Shoreline Use | 16. Utilities |

Staff then reviewed the proposal for compliance with applicable code criteria and standards in order to determine whether all potential impacts will be mitigated by the requirements of the code.

Staff's analysis also reflects review of agency and public comments received during the comment period, and knowledge gained through a site visit.

Major Issues:

Only the major issues, errors in the development proposal, or justification for any conditions of approval are discussed below. Staff finds that all other aspects of this proposed development comply with the applicable code requirements and, therefore, are not discussed below.

LAND USE:**Finding #1**

The site is zoned R-5 and single family residences are a permitted use in the zone. The project proposes each lot to be at least 5 acres. The R-5 zone district also requires a 140 foot lot width which both of the lots meet. There is no lot depth requirement. (See Condition #D-1)

Finding #2

Building envelopes are shown on the face of the plat map to show the buffers for Rock Creek, wetlands, archeological site and required zoning setbacks to property lines and road easements. However, the front yard setbacks, abutting Hammond Road are shown as 25 feet when the correct setback is fifty feet from the edge of the right-of-way. This will need to be corrected on the final plat map. (See Condition #D-2)

Finding #3

CCC 40.510.020,D, 5, a requires that all plats or development approvals issued for residential development activities on, or within a radius of five hundred (500) feet for lands zoned agriculture-wildlife (AG-WL), agriculture (AG-20), forest (FR-40, FR-80), or surface mining (S), or in current use pursuant to Chapter 84.34 RCW, must contain a way of notifying future buyers that activities that may not be compatible with residential uses may occur. (See Condition #D-15-a)

Finding #4

The Clark County Surveyor's office reviews the preliminary boundary surveys submitted with land division applications. They noted significant encroachments by fencing along the south and northwest sides of the parcel. There are three options that can be used to resolve the fence encroachment.

1. The applicant can give the property to the neighboring property.
2. Record a document signed by the other property owners stating that they realize it is not their property and will not attempt to take that property through an adverse possession claim.
3. If the neighbor will not accept a quit claim and will not sign an agreement to relinquish any claim, the final plat may show the gross area (to the deed line) and show the net area (to the fence or other encroached area) with the provision that the net area will meet minimum lot size and dimensions in the event of loss of the disputed area. This option should be of last resort and only after the other options fail.

The fence encroachment must be resolved prior to final plat approval. (See Condition D-3)

Finding #5

The applicant has requested a 10% variance for the setback from the existing home to the east property line. Apparently when an addition was made to the home in 2006 the setback was measured from the fence line which is where they thought the property line was. However, the fence line turned out to be 2 feet away from the property line so the addition ended up being 18.2 feet to the property line instead of the required 20 feet. The applicant and the neighbor attempted to adjust the boundary line to the fence line but ran into legal problems from the lien holders of the property so they rescinded the adjustment (see Exhibit 9).

The variance will not subtract from the livability or appearance of this residential area. Nor will it impair or impede the availability or safety of access that would otherwise exist for vehicles or for pedestrians. A variance to only one regulation is being requested and mitigation for adverse impacts is not necessary for this variance. Therefore, this variance is approved.

Conclusion (Land Use):

Staff concludes that the proposed preliminary plan, subject to conditions identified above, meets the land use requirements of the Clark County Code.

ARCHAEOLOGY:

Finding #1

Much of the site is mapped on county archaeological predictive maps as having a high potential for containing artifacts. Thus, the applicant was required to perform an archaeological predetermination.

Finding #2

An archaeological predetermination on the site was conducted for the applicant by Archaeological Services of Clark County, and the results of the investigation were sent to the Department of Archaeology & Historic Preservation (DAHP). DAHP concurred with the recommendation that a formal survey be conducted to define the boundaries of the archaeological deposits recorded during the predetermination survey (see Section 12 of Exhibit 1). The archaeological survey was conducted and forwarded to DAHP and a final letter from DAHP concurs with the survey boundary and recommends a covenant be recorded that restricts disturbance in that area.

However, between the archeological pre-determination and the archeological survey, test holes for the reserve septic drainfield for lot 1 were dug between two shovel test probes that tested positive for prehistoric and historic artifacts. Mitigation measures of the SEPA determination requires that a damage assessment be completed for this area and any recommended mitigation be completed prior to final plat. The determination also requires recovery of the artifacts in the area needed to construct the drainfield so that this area is usable as well as the covenant and that the area be delineated on the final plat map. If the applicant obtains an approved site for a reserve area for lot one

outside the site, the recovery portion of the condition need not be met. (See Conditions D-4, D-5, D-6, D-7)

Finding #3

The County's Wetland Biologist requested that the existing septic drainfield and the barn be included in the development envelope and the plat map was changed accordingly (Exhibit 6). However, because the existing drainfield is located within the archeological site, unless an archeological recovery is done for that area it will need to be removed from the development envelope. (See Condition #D-8)

Conclusion (Archaeology):

Staff finds that the proposed preliminary plan, subject to conditions identified above, meets the archaeology requirements of the Clark County Code.

SHORELINE:

Finding #1

Since the proposed project will be located near waters protected under the Clark County Shoreline Management Master Program, it is subject to the provisions of the Shoreline Management Act. Shoreline jurisdiction encompasses the area within 200' of the ordinary high water mark of Salmon Creek, all 100-year floodplains and associated wetlands. The area under shoreline jurisdiction and a note indicating that any development or use within that area is subject to the Clark County Shoreline Master Program and a Shoreline Permit may be required will be required. (See Conditions #D-16-f, D-17 and D-18)

Finding #2

The shoreline management review committee has met and determined that the project can be approved with conditions. This recommendation will be sent to the Department of Ecology once the final decision for the land division has been issued and the appeal period ended. Once the Department of Ecology has received it, they then have 30 days to grant approval, approval with conditions or denial of the permit. Conditions of approval for this land division will be imposed stating that prior to construction of the development the applicant must have an approved Shoreline Conditional Use permit, that the jurisdictional area be delineated on the final plat map and note that any development within that area may need a shoreline permit. (See Conditions #D-16-f and D-18)

Conclusion (Shoreline):

Staff finds that the proposed preliminary plan, subject to conditions identified above, meets the shoreline requirements of the Clark County Code.

HABITAT:

Finding #1

A mapped Department of Natural Resources (DNR) type F (fish-bearing) stream flows through portions of the property. According to Title 40.440.010(C)(1)(a), a DNR type F watercourse requires a 200-foot riparian Habitat Conservation Zone (HCZ) in order to

protect fish and wildlife habitat. The riparian HCZ extends 200' horizontally outward from the ordinary high water mark.

Finding #2

That applicant has proposed building envelopes that are outside of the riparian HCZ on the site. The proposed building envelopes comply with the exemption criterion identified in Table 40.440.010-1, row 2 of the Habitat Conservation Ordinance. (See Condition #D-9)

Conclusion (Habitat):

Staff finds that the proposed preliminary plan, subject to conditions identified above, meets the habitat requirements of the Clark County Code.

WETLAND:

Finding #1

The applicant submitted a "Wetland Delineation Report" prepared by Ecological Land Services, Inc. dated December 2008 (Section 11 of Exhibit 1). The applicant also submitted a "Supplemental Wetland Map by ELS," dated 5/29/09, which effectively revises Figure 2 of the delineation report to show the wetland areas more accurately (Exhibit 15).

The study area of the wetland report does not include the entire site, but rather focuses on areas of proposed development as allowed under CCC 40.450.040(G)(2). In general, staff agrees with the wetland and buffer boundaries as mapped in the 5/29/09 Supplemental Wetland Map. Staff observed additional wetland area in the north-central portion of the property. Staff also agreed that the wetland is Category IV. Under Table 40.450.030-5, residential driveways are considered Moderate Intensity land use. Under Table 40.450.030-2, Category IV wetlands carry 25-foot buffers for Low Intensity land use (residential density at or lower than 1 unit per 5 acres) and 40-foot buffers for Moderate Intensity land use (residential driveways). Portions of the buffers are functionally isolated per CCC 40.450.030(E)(4)(b)(1).

Staff issued a wetland determination staff report on July 6, 2009 presenting these findings (see WET2009-00038). The wetlands and buffers are mapped correctly on the 8/3/09 revised preliminary plat (Exhibit 6). (See Conditions #D-10 and D-16-e)

Finding #2

The applicant has proposed development envelopes for each of the 2 lots (see Exhibit 6). The development envelopes clearly avoid the on-site wetland and buffer areas.

Finding #3

In order to access the development envelope of Lot 2, a new driveway must be constructed along the eastern property line through a portion of the wetland buffer. The preliminary plat shows that the driveway will impact 8,379 sq ft of wetland buffer. The applicant proposes to replace this area by designating 9,640 sq ft of new buffer in the northwest corner of Lot 2 (see Exhibit 6).

Crossing buffers with new roads is allowed provided buffer functions are replaced and impacts are minimized (see CCC 40.450.040(C)(5)). Staff finds that the proposed buffer replacement meets these criteria.

Conclusion (Wetlands):

Staff finds that the proposed preliminary plan, subject to conditions identified above, meets the wetland requirements of the Clark County Code.

DEPARTMENT OF ECOLOGY:

Finding #1 – Water Quality

The Washington Department of Ecology (DOE) submitted letters, dated August 327, 2009 [Exhibit 14]. This correspondence notes that any discharge of sediment-laden runoff or other pollutants to water of the state is a violation of state statute. It also specifies that “erosion control measures must be in place prior to any clearing, grading or construction” on site and identifies several preventative measures to be taken to ensure such discharge does not occur.” Clark County Code also requires erosion control measures be in place prior to any clearing, grading or construction and construction activities are monitored by inspection staff to ensure compliance with the approved plan.

The DOE letter also notes that “coverage under the National Pollution Discharge Elimination System (NPDES) and State Waste Discharge Permit for Stormwater Discharges Associated with Construction Activities is required for construction sites which disturb an area of one acre or more and which have or will have a discharge of stormwater surface water or a storm sewer.” The applicant has been provided a copy of the DOE letter, and will be required to obtain any permits required. (See Condition G-2)

Finding #2 – Water Resources

The applicant is responsible for inspecting the site to determine the location all existing wells. Any unused wells must be properly decommissioned and decommissioning reports submitted to Ecology as described in WAC 173-160-381. This includes resource protection wells and any dewatering wells installed during the construction phase of the project. (See Condition #A-4)

GEOTECHNICAL

Finding #1

There are steep slopes on lot 1. As this development is proposed there is no work being done on the steep slopes therefore at this time no other permits are required. If grading or placement of structures is proposed on the steep slopes or within the geohazard setback in the future on lot 1 a geohazard permit will be required for the proposed work within the geohazard area or the geohazard setback. (See Condition #D-16-h and D-19)

TRANSPORTATION:

Finding #1 - Roads

NE Hammond Road is classified as a Rural Local Access roadway that requires a total of 50 feet of right-of-way with a 24- foot width pavement. Frontage improvements are exempt on this roadway however right-of-way is required. Therefore, the applicant shall dedicate a minimum of 25-foot half-width right-of-way along the property frontage of NE Hammond Road. (See Condition #A-5)

Finding #2 - Sight Distance

The sight distance required at the proposed joint driveway onto NE Hammond Road shall be at least 250 feet to the east and west measured 15 feet back from the edge of the travel way. (See Condition #A-5)

Finding #3 – Driveways

Cross slopes for driveways should not exceed 5% and the turning movements need to accommodate a fire truck into the driveway. This driveway shall also be paved back a min 20 feet from the edge of roadway or to the right-of-way line whichever is greater by 12 to 35 feet in width. The joint driveway shall be constructed to the lot line of Lot 2. The driveway width along the length of the driveway shall be a minimum of 12 feet. (See Condition #A-5)

Finding #4 - Driveway Turnouts

Driveway turnouts shall be spaced no greater than 500 feet per standard detail number 33. (See Condition #A-1)

Conclusion (Transportation):

Staff finds that the proposed preliminary plan, subject to conditions identified above, meets the transportation requirements of the Clark County Code.

STORMWATER:

Finding #1 – Applicability

The newly created lot is subject to the Stormwater and Erosion Control Ordinance (CCC 40.380). Projects that meet the eligibility requirements of CCC 40.260.110(B)(1) and create less than 5000 square feet of new impervious surface are exempt from CCC 40.380.040(B) and CCC 40.380.040(C). Houses that utilize roof downspout systems to infiltrate road runoff may be deducted from area calculations. It appears that there will be over 5,000 square feet of new impervious area for this lot and the driveways will be created, therefore CCC 40.380.040(B) and CCC 40.380.040(C) may apply.

Prior to final plat approval, the applicant shall submit a stormwater plan to address stormwater runoff control for new impervious surfaces exceeding 5,000 square feet due to the widening and extending the joint driveway and placement of a culvert under the driveway in the existing drainage ditch. (See Condition #A-6)

At the time of building permit application, the home owner must submit a plan for drainage project review and obtain approval for the onsite stormwater control system,

unless the stormwater control system for the lot is pre-designed and approved with the preliminary or a final stormwater plan. Note: if a licensed Civil engineer or Surveyor certifies that at time of building permit application that the 5,000 square foot of total new impervious area is not achieved with the application then a stormwater plan is not warranted for that lot. (See Conditions # E-3 and F-1)

Conclusion (Stormwater):

Staff concludes that the proposed preliminary stormwater plan, subject to the conditions above, is feasible. Therefore, the requirements of the preliminary plan review criteria are satisfied.

FIRE PROTECTION:

Finding #1 – Fire Marshal Review

This application was reviewed by Tom Scott in the Fire Marshal's Office. Tom can be reached at (360) 397-2375 x4095 or 3323. Information can be faxed to Tom at (360) 759-6063. Where there are difficulties in meeting these conditions or if additional information is required, contact Tom in the Fire Marshal's office immediately.

Finding #2 – Building Construction

Building construction occurring subsequent to this application shall be in accordance with the provisions of the county's building and fire codes. Additional specific requirements may be made at the time of building construction as a result of the permit review and approval process. (See Condition #E-1)

Finding 3 – Fire Flow

Fire flow in the amount of 500 gallons per minute supplied for 30 minutes duration is required for this application. The local fire chief has waived the requirement for hydrants. Alternative construction methods shall be used to meet fire flow; this will require 30 foot rear and side setbacks and a class "A" rated roof. An automatic fire sprinkler system may be required for new residential structures exceeding 3,600 sq. ft. of habitable space. (See Condition

Finding #4 – Fire Hydrants

Fire hydrants are required for this application. Either the indicated number or the spacing of the fire hydrants is inadequate. Per approval of the local fire chief this requirement has been waived.

Finding #4 - Fire Apparatus Access

The roadways and maneuvering areas as indicated in the application shall meet the requirements of the Clark County Road Standard. Provide an unobstructed vertical clearance of not less than 13.5 feet, with an all weather driving surface and capable of supporting the imposed loads of fire apparatus. (See ConditionA-3-a)

Finding #5 - Driveways

New private driveways in excess of three hundred (300) feet in length shall be provided with an approved turnaround at the terminus. Turnouts shall be provide at intervals five

hundred (500) feet or less, such that no portion of the driveway is in excess of three hundred (300) feet from an approved turnaround or turnout. (See Condition #D-14-a and D-16-g)

Conclusion (Fire Protection):

Staff finds that the proposed preliminary plan, subject to conditions identified above, meets the fire protection requirements of the Clark County Code.

WATER & SEWER SERVICE:

Finding #1

The use of water wells and septic systems are proposed to serve the site. A "Health Department Evaluation Letter" has been submitted that confirms the Health Department conducted an evaluation of the site and determined that the existing and proposed wells and septic systems are feasible, subject to conditions of approval. (See Conditions#D-13- a though i)

Finding #2

Where use of wells or septic systems are proposed, the Health Department must sign the final plat prior to submittal to the county for final plat review and recording. (See Condition #D-11)

Conclusion (Water & Sewer Service):

Staff finds that the proposed preliminary plan, subject to conditions identified above, meets the water and sewer service requirements of the Clark County Code.

IMPACT FEES:

Finding #1 Impact Fees

The additional residential lots created by this plat will produce impacts on schools, parks, and traffic, and are subject to School (SIF), Park (PIF), and Traffic Impact

- Rural 2 sub-area with a TIF of \$593.82 per dwelling.
- Battle Ground School District, with a SIF of \$9,880.00 per dwelling

TIF is payable prior to issuance of building permits. (See Conditions #D-15-b and E-2)

SEPA DETERMINATION

As lead agency under the State Environmental Policy Act (SEPA) Rules [Chapter 197-11, Washington Administrative Code (WAC)], Clark County must determine if there are possible significant adverse environmental impacts associated with this proposal. The options include the following:

- **DS = Determination of Significance** (The impacts cannot be mitigated through conditions of approval and, therefore, require the preparation of an Environmental Impact Statement (EIS);
- **MDNS = Mitigated Determination of Non-Significance** (The impacts can be addressed through conditions of approval); or,
- **DNS = Determination of Non-Significance** (The impacts can be addressed by applying the County Code).

SEPA APPEAL PROCESS:

An **appeal** of this SEPA determination and any required mitigation must be filed with the Department of Community Development within fourteen (14) calendar days from the date of this notice. The SEPA appeal fee is **\$1,493**.

A **procedural appeal** is an appeal of the determination (i.e., determination of significance, determination of non-significance, or mitigated determination of non-significance). A **substantive appeal** is an appeal of the conditions required to mitigate for probable significant issues not adequately addressed by existing County Code or other law.

Both the **procedural and substantive appeals** must be filed within fourteen (14) calendar days of this determination. Such appeals will be considered in the scheduled public hearing and decided by the Hearing Examiner in a subsequent written decision.

SEPA Appeals must be in writing and contain the following information:

1. The case number designated by the County and the name of the applicant;
2. The name and signature of each person or group (petitioners) and a statement showing that each petitioner is entitled to file an appeal as described under Section 40.510.030(H) of the Clark County Code. If multiple parties file a single petition for review, the petition shall designate one party as the contact representative with the Development Services Manager. All contact with the Development Services Manager regarding the petition, including notice, shall be with this contact person;
3. A brief statement describing why the SEPA determination is in error.

The decision of the Hearing Examiner on any SEPA procedural appeal can not be appealed to the Board of County Commissioners, but must pursue judicial review.

Staff Contact Person:

Terri Brooks, Planner, (360) 397-2375, ext. 4180
 Travis Goddard, Team Leader, (360) 397-2375, ext. 4180

Responsible Official:

Michael V. Butts, Development Services Manager

DECISION

Based upon the proposed plan (identified as Exhibit 2), and the findings and conclusions stated above, the Development Services Manager hereby **APPROVES** this request, including the variance, subject to the following conditions of approval:

CONDITIONS OF APPROVAL

A Final Construction Review for Land Division Review & Approval Authority: Development Engineering

Prior to construction, a Final Construction Plan shall be submitted for review and approval, consistent with the approved preliminary plan and the following conditions of approval:

A-1 Wetland Plan showing:

- a. Wetland boundaries, including areas shown as wetlands in the Wetland Determination Map (WET2009-00038; (See Wetland Finding #1);
- b. Buffer boundaries, including buffers for areas shown as wetlands in the Wetland Determination Map (WET2009-00038; See Wetland Finding #1);
- c. Development envelopes that avoid wetland and buffer areas (See Wetland Finding 2);
- d. Designation of all proposed buffer replacement areas (See Wetland Finding 3).

A-2 Demarcation of wetland and/or buffer boundaries shall be established prior to, and maintained during construction (i.e. sediment fence).

A-3 Fire Marshal Requirements:

- a. Fire Apparatus Access: Fire apparatus access is required for this application. The roadways and maneuvering areas as indicated in the application shall meet the requirements of the Clark County Road Standard. The applicant shall provide an unobstructed vertical clearance of not less than 13.5 feet, with an all weather driving surface capable of supporting the imposed loads of fire apparatus. (See Fire Protection Finding # 4)

A-4 Department of Ecology - Any unused wells must be properly decommissioned and decommissioning reports submitted to Department of Ecology as described

in WAC 173-160-381. This includes resource protection wells and any dewatering wells installed during the construction phase of the project. (See Department of Ecology Finding #2)

- A-5** The applicants engineer shall submit engineering drawings addressing the following:
- a. 250 feet of sight distance at the joint driveway entrance both to the east and the west
 - b. Fire truck turning movements at the joint driveway entrance
 - c. The joint driveway shall be constructed to the lot line of Lot 2
 - d. Joint driveway cross slope not exceeding 5% slope
 - e. Minimum all weather surface driveway width of 12 feet
 - f. Driveway turnouts not greater than 500 feet
 - g. Minimum 25 foot half width right-of-way dedication
 - h. Grading plan if excavation and fill exceed 50 cubic yards
- A-6 Final Stormwater Plan** - The applicant shall submit and obtain County approval of a final stormwater plan designed in conformance to CCC 40.380 and the following conditions of approval:
- a. Prior to final plat approval, the applicant shall submit a stormwater plan to address stormwater runoff control for new impervious surfaces exceeding 5,000 square feet due to the widening and extending the joint driveway and placement of a culvert under the driveway in the existing drainage ditch. (See Stormwater Finding #1)

B	Prior to Construction of Development Review & Approval Authority: Development Inspection
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Prior to construction, the following conditions shall be met:

B-1 None

C	Provisional Acceptance of Development Review & Approval Authority: Development Inspection
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Prior to provisional acceptance of development improvements, construction shall be completed consistent with the approved final construction plans and the following conditions of approval:

- C-1** Wetlands and Buffers - Permanent physical demarcation of the boundaries in a manner approved by the Development Services Manager (i.e. fencing, hedgerows, berms etc.) and posting of approved signage on each lot or every 100 ft of the boundary, whichever is less.

D	Final Plat Review & Recording Review & Approval Authority: Development Engineering
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Prior to final plat approval and recording, the following conditions shall be met:

- D-1** Each lot shall be a minimum of 5 acres and have a 140 foot lot width. (See Land Use Finding #1)
- D-2** Correct the front yard setback on lot 1 to 50 feet from the edge of the right-of-way of Hammond Road and show the required fire marshal side and rear yard setbacks of 30 feet. (See Land Use Finding #2 and Fire Protection Finding #3)
- D-3** Resolve the fence encroachment along the northwest and south sides of the plat by one of the following methods:
 - a. The applicant can give the property to the neighboring property.
 - b. Record a document signed by the other property owners stating that they realize it is not their property and will not attempt to take that property through an adverse possession claim.
 - c. If the neighbor will not accept a quit claim and will not sign an agreement to relinquish any claim, the final plat may show the gross area (to the deed line) and show the net area (to the fence or other encroached area) with the provision that the net area will meet minimum lot size and dimensions in the event of loss of the disputed area. This option should be of last resort and only after the other options fail.(See Land Use Finding #4)
- D-4** Prior to final plat approval the applicant shall obtain an excavation permit from the Washington State Department of Archaeology and Historic Preservation and complete a damage assessment and any recommended mitigation for the test pit holes for the septic reserve system dug within the archeological site boundary. (See Archeological Finding #2)
- D-5** Prior to final plat the applicant shall obtain an excavation permit from the State of Washington Department of Archaeology and Historic Preservation for archaeological testing and recovery data recovery of the area proposed for the construction of the septic drainfield reserve area if it cannot be relocated outside of the boundaries of archaeological site 45CL847. (See Archeological Finding #2)
- D-6** The building envelope on lot one shall be delineated in accordance with the Washington State Department of Historic Preservation's (DAHP) recommendation in their letter dated July 21, 2009 as modified by any revisions because of the recovery area. (See Archeological Finding #2)
- D-7** A covenant to Clark County prohibiting any ground disturbance outside of the building envelopes without further archeological review, in a form approved by

the Clark County Prosecutor's Office, shall be recorded with the final plat. (See Archeological Finding #2)

D-8 The applicant shall either remove the portion of the building envelope that includes the existing septic system or obtain an excavation permit from the State of Washington Department of Archaeology and Historic Preservation for archaeological testing and recovery data recovery in those areas. (See Archeological Finding #3)

D-9 The applicant shall clearly show building envelopes and habitat areas on the face of the final plat. Any revisions to the proposed building envelopes will require additional review. (See Habitat Finding #2)

D-10 Wetlands:

- a. The wetland and buffer boundaries shall be delineated on the face of the Final Site Plan, including areas designated for buffer replacement.
- b. Recording a revised conservation covenant with the County Auditor that runs with the land and requires that the wetlands and buffers remain in natural state. The area protected under the covenant shall include all of the on-site wetland and buffer areas, including areas designated for buffer replacement, and areas shown as wetlands in the Wetland Determination Map (see WET2009-00038). (See Wetland Finding #2)

D-11 Health Department Signature Requirement - The Health Department is required to sign the final plat.

D-12 Abandonment of On-Site Water Wells and Sewage Systems – The location of abandoned septic tanks and decommissioned wells shall be shown on the face of the final plat.

D-13 On-Site Water Wells and Sewage System Requirements - For on-site water wells and sewage system, the following requirements shall be completed:

- a. Small public water systems shall be drilled and approved by the Health Department prior to final plat approval;
- b. A 100-foot radius of protection for any wells shall be shown on the final plat map and be located within the boundaries of the land division;
- c. The location of all existing wells (in use, not in use or abandoned) shall be indicated on the final plat map;
- d. Each on-site sewage system shall be on the same lot it serves;
- e. Test hole locations corresponding to the designated treatment sites shall be surveyed and indicated on the final plat map;
- f. No public or private easements or rights-of-way shall be extended through the approved, reserve or existing on-site sewage system sites;
- g. Provisions shall be made to prevent flow or accumulation of surface water over the area where an on-site sewage system is located;

- h. A copy of the County approved final drainage plan shall be submitted for review; and,
- i. All proposed lots shall have a current approved septic system site evaluation or septic system permit. Should either be allowed to expire, subsequent approval of an on-site sewage treatment system cannot be assured and, therefore, the Health Department will not sign the final plat.

D-14 Fire Marshal Requirements:

- a. New private driveways in excess of three hundred (300) feet in length shall be provided with an approved turnaround at the terminus. Turnouts shall be provide at intervals five hundred (500) feet or less, such that no portion of the driveway is in excess of three hundred (300) feet from an approved turnaround or turnout. (See Fire Protection Finding #5)

D-15 Developer Covenant – A “Developer Covenant to Clark County” shall be submitted for recording to include the following:

- a. Land Near Agricultural, Forest or Mineral Resources: Land owners and residents are hereby notified that this plat is located within 500 feet of lands zoned agriculture-wildlife (AG-WL), agriculture (AG-20), forest (FR-40, FR-80), or surface mining (S), or in current use under Revised Code of Washington (RCW) Chapter 84.34. Therefore, the subject property is within or near designated agricultural land, forest land or mineral resource land (as applicable) on which a variety of commercial activities may occur that are not compatible with residential development for certain periods of limited duration. Potential discomforts or inconveniences may include, but are not limited to: noise, odors, fumes, dust, smoke, insects, operation of machinery (including aircraft) during any twenty-four (24) hour period, storage and disposal of manure, and the application by spraying or otherwise of chemical fertilizers, soil amendments, herbicides and pesticides.
- b. Impact Fees: "In accordance with CCC 40.610 the School and Traffic Impact Fees for each dwelling in this subdivision are: \$9,880.00 Battle Ground School District and \$593.82 (Rural 2 TIF sub-area) respectively. The impact fees for lots on this plat shall be fixed for a period of three years, beginning from the date of preliminary plat approval, dated _____, and expiring on _____. Impact fees for permits applied for following said expiration date shall be recalculated using the then-current regulations and fees schedule."

D-16 Plat Notes - The following notes shall be placed on the final plat:

- a. Archaeological (all plats): "If any cultural resources and/or human remains are discovered in the course of undertaking the development activity, the Office of Archaeology and Historic Preservation in Olympia and Clark County Community Development shall be notified. Failure to comply with

these State requirements may constitute a Class C Felony, subject to imprisonment and/or fines."

- b. Building Envelope Note: If any development activity or ground disturbance occurs outside of the building envelopes represented on the final plat, an additional archaeological predetermination survey will be required for the area impacted.
- c. Septic Systems: "The approved, initial, reserve, and/or existing sewage system sites shall be protected from damage due to development. All sites shall be maintained so they are free from encroachment by buildings and not be subject to vehicular traffic or other activity which would adversely affect the site or system function."
- d. Utilities: "An easement is hereby reserved under and upon the exterior six (6) feet at the front boundary lines of all lots for the installation, construction, renewing, operating and maintaining electric, telephone, TV, cable and water.
- e. Wetland covenants: "Clark County Wetland Protection Ordinance (Clark County Code Chapter 40.450) requires wetlands and wetland buffers to be maintained in a natural state. Refer to the Conservation Covenant recorded in conjunction with this plat for limitations on the maintenance and use of the wetland and wetland buffer areas identified on the face of this plat."
- f. Shoreline: "Any vegetation removal, construction or other development within the shoreline management area as delineated on the face of this plat may require review by Clark County for compliance with the Clark County Shoreline Master Program." (See Shoreline Finding #1)
- g. New private driveways in excess of three hundred (300) feet in length shall be provided with an approved turnaround at the terminus. Turnouts shall be provide at intervals five hundred (500) feet or less, such that no portion of the driveway is in excess of three hundred (300) feet from an approved turnaround or turnout.
- h. Geologic Hazard: "A Geohazard permit will be required for lot 1 if any grading or placement of structures is proposed within the geohazard area or the geohazard setback."
- i. Stormwater: "At the time of building permit, A stormwater plan for development of Lot 2 shall be required if the total new impervious surface exceeds 5,000 square feet."
- j. Fire Protection: "Alternative construction methods shall be used to meet fire flow; this will require 30 foot rear and side setbacks and a class "A"

rated roof. An automatic fire sprinkler system may be required for new residential structures exceeding 3,600 sq. ft. of habitable space.”

- D-17 The applicant shall obtain an approved shoreline conditional use permit and comply with conditions of that permit. (See Shoreline Finding #1)
- D-18 The final plat map shall delineate the area within shoreline jurisdiction. (See Shoreline Finding #2)
- D-19 Delineate the geohazard area on the final plat map.

E	Building Permits
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	Review & Approval Authority: Customer Service
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Prior to issuance of a building permit, the following conditions shall be met:

- E-1 Building construction occurring subsequent to this application shall be in accordance with the provisions of the county's building and fire codes. Additional specific requirements may be made at the time of building construction as a result of the permit review and approval process. (See Fire Protection Finding #2)
- E-2 **Impact Fees** - The applicant shall pay impact fees based on the number of dwelling units in the building, as follows:
 - a. \$9,880.00 per dwelling for School Impact Fees (Battle Ground School Dist.)
 - b. \$593.82 per dwelling for Traffic Impact Fees (Rural 2 TIF Sub-area)

If the building permit application is made more than three years following the date of preliminary land division plan approval, the impact fees shall be recalculated according to the then-current rate.

E-3 Stormwater:

At the time of building permit application, the home owner must submit a plan for drainage project review and obtain approval for the onsite stormwater control system for lot 2 only, unless the stormwater control system for the lot is pre-designed and approved with the final stormwater plan. If a licensed Civil engineer or Surveyor certifies that at time of building permit application that the 5,000 square feet of total new impervious area is not achieved with the application then compliance with the proposed stormwater control summarized in a letter signed and stamped by Mr. Cal Ek, P.E will suffice. Prior to construction, demarcation of wetland and/or buffer boundaries shall be established and approved by Clark County.

F	Occupancy Permits Review & Approval Authority: Building
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Prior to issuance of an occupancy permit, the following conditions shall be met:

- F-1** Prior to issuance of an occupancy permit, the homeowner shall have the approved drainage system installed if more than 5,000 square feet of impervious surface was created. An approved inspection by Clark County must also be completed

G	Development Review Timelines & Advisory Information Review & Approval Authority: None - Advisory to Applicant
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- G-1 Land Division** - Within 5 years of preliminary plan approval, a Fully Complete application for Final Plat review shall be submitted.

- G-2 Department of Ecology Permit for Construction Stormwater** - A permit from the Department of Ecology (DOE) is required if:

- The construction project disturbs one or more acres of land through clearing, grading, excavating, or stockpiling of fill material; **AND**
- There is a possibility that stormwater could run off the development site during construction and into surface waters or conveyance systems leading to surface waters of the state.

The cumulative acreage of the entire project whether in a single or in a multiphase project will count toward the one acre threshold. This applies even if the applicant is responsible for only a small portion [less than one acre] of the larger project planned over time. **The applicant shall Contact the DOE for further information.**

G-3 Building and Fire Safety

Building and Fire, Life, and Safety requirements must be addressed through specific approvals and permits. This decision may reference general and specific items related to structures and fire, life, and safety conditions, but they are only for reference in regards to land use conditions. It is the responsibility of the owner, agent, tenant, or applicant to insure that Building Safety and Fire Marshal requirements are in compliance or brought into compliance. Land use decisions do not waive any building or fire code requirements.

H	Post Development Requirements Review & Approval Authority: As specified below
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- H-1** Property owners shall comply with RCW 27.53 for non-disturbance of archeological sites.

Note: The Development Services Manager reserves the right to provide additional comment and findings of fact regarding this decision, if appealed.

Decision Appeal Process:

An **appeal** of any aspect of this decision may be appealed to the County Hearing Examiner only by a party of record. A "Party of Record" includes the applicant and those individuals who submitted written testimony to the Development Service Manager within the designated comment period.

The appeal shall be filed with the Department of Community Development, Permit Services Center, 1300 Franklin Street, Vancouver, Washington, 98668, within fourteen (14) calendar days from the date the notice of final land use decision is mailed to parties of record. This decision was mailed on September 10, 2009. Therefore any appeal must be received in this office by September 24, 2009.

Any appeal of the final land use decisions shall be in writing and contain the following:

- Case number designated by the County;
- Name of the applicant;
- Name of each petitioner;
- Signature of each petitioner or his or her duly authorized representative;
- A statement showing the following:
 - That each petitioner is entitled to file the appeal as an interested party in accordance with CCC 40.510.030(H);
 - The specific aspect(s) of the decision being appealed;
 - The reasons why each aspect is in error as a matter of fact or law;
 - The evidence relied on to prove the error; and,
- The appeal fee of **\$5,240**.

Ninety percent (90%) of the fee will be refunded if the appeal is withdrawn in writing by the petitioner at least 15 calendar days before the public meeting to consider the appeal.

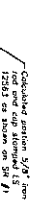
Attachments:

- Copy of Proposed Preliminary Plan

A copy of the approved preliminary plan, SEPA Checklist and Clark County Code are available for review at:

**Public Service Center
Department of Community Development
1300 Franklin Street
P.O. Box 9810
Vancouver, WA. 98666-9810
Phone: (360) 397-2375; Fax: (360) 397-2011**

A copy of the Clark County Code is also available on our Web Page at: <http://www.clark.wa.gov>



CLIME TABLE					
CURVE	CHORD BRG	CHORD	RADIUS	DELTA	ARC
C1	S4°10.33'W	80.28	40.00	53.52.33"	0.7343
C2	S21°53'05"E	114.18	208.59	31°10'00"	11.5.37
C3	N27°10.08'W	174.02	348.00	27°40'00"	176.09

LLS CONTACT:
Casey Hill
Ph. (360) 887-0200
Email: CaseyH@lawsonl.com
Email: Planning@lawsonl.com

LLS

LAWSON LAND SERVICES INC.
113 South Parkway Avenue
Battle Ground, WA 98604
Phone (360) 687-0500
Fax (360) 687-0522

Date: AUG 03, 2008	NO.	REVISIONS:	DATE:	APPR. BY:
Dwg Name: 06-06B MD	1			
Hard Scale: 1" = 80'	2			
Vert. Scale: N/A	3			
Drawn by: MCB	4			
Checked by: CWF	5			

